

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RICHARD SIEGAL,	:	No. 07-cv-5991 (JSR)
	:	Electronically Filed Case
Plaintiff,	:	
	:	AFFIRMATION OF PAUL R.
-against-	:	NIEHAUS IN OPPOSITION TO
	:	DEFENDANT'S MOTION TO
WHITE LIGHTING DESIGN, INC. and	:	DISMISS OR TRANSFER
KEVIN D. WHITE,	:	
	:	
Defendants.	:	
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PAUL R. NIEHAUS, hereby affirms pursuant to all penalties of perjury:

1. I am a member in good standing of the Bar of this Court and of the Courts of New York, and am a member of Niehaus LLP, attorneys for Plaintiff in this action. I make this affirmation in opposition to Defendants' motion to dismiss the Complaint for lack of personal jurisdiction, or to transfer this case to the District Court of Colorado. Unless otherwise stated, I make this affirmation of my own personal knowledge.

2. Based on invoices sent to Plaintiff by Defendants during 2004 through 2006, Defendants billed Plaintiff the following amounts:

- a. for "consultation fees" in 2004: \$140,952.50
 - b. total invoices in 2004: \$184,723.32
 - c. for "consultation fees" in 2005: \$231,564.60
 - d. total invoices in 2005: \$595,442.97
 - e. for "consultation fees" in 2006: \$374,138.75
 - f. total invoices in 2006: \$909,747.59.
3. Invoices reflecting these amounts are attached hereto as Exhibit A.

4. Total invoices include consultation fees, reimbursements (primarily for travel), and payment for fixtures purchased by Defendants.

5. In his Declaration, Mr. White states that “gross annual income” for Defendants has averaged less than one million dollars for the past four years. (White Decl. ¶ 4.) Assuming that “gross annual income” refers to income received for professional services (consultation fees), and does not refer to payments received as reimbursements for expenses or hardware, the percentage of Defendants’ revenue attributable to New York sources – Plaintiff – is at least 14% for 2004, 23% for 2005, and 37% for 2006.

6. If the million dollars in “gross annual income” to which Mr. White refers *includes* reimbursements for expenses and hardware, the percentage of Defendants’ revenues derived from New York rises to 18% for 2004, 59% in 2005, and 91% in 2006.

I declare under penalty of perjury that the foregoing is true and correct.

s/ Paul R. Niehaus
Paul R. Niehaus